

Practitioner's Docket No. 03768/09379

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Howard M. Welch, Charles Morell, Michael C. Cook, Janes R. Fitts, Jr., Donald V. Willitts, Marion C. Morris, Ronald H. Wideman, John A. Brewer, Mark M. Mleziva, Ken M. Salter, Raymond J. May, Lavada Boggs, and Leslie D. Dobbins

Application No.: 09/855,169

Group No.: 1733

Filed: 05/14/2001

Examiner: Jeff Aftergut

For: METHOD AND APPARATUS FOR PRODUCING LAMINATED ARTICLES

Commissioner for Patents
Washington, D.C. 20231

RECEIVED
APR 14 2003
GROUP 1700

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that the attached correspondence comprising:

1. Fee Transmittal (1 page).
2. Petition and Fee for Extension of Time (2 pages).
3. Response Transmittal (2 pages).
4. Response (5 pages).
5. Check No. 22696 in the amount of \$410.00.
6. Return Postcard.

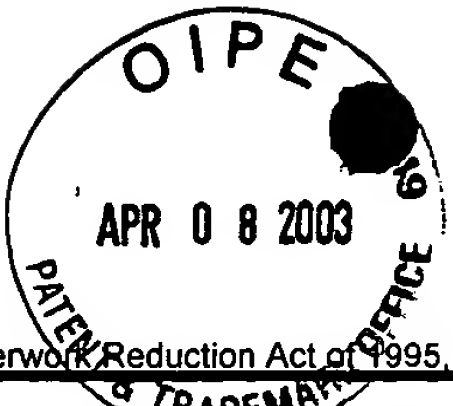
is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

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Deborah Anne Weiner


Signature of person mailing paper



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FEE TRANSMITTAL

for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 410.00

Complete if Known

Application Number	09/855,169
Filing Date	May 14, 2001
First Named Inventor	Welch et al.
Examiner Name	Jeff H. Aftergut
Art Unit	1733
Attorney Docket No.	03768/09379

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account Number
Deposit Account Name

50-2548

Nelson Mullins

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		-20** =		X		=	
Independent Claims		-3** =		X		=	
Multiple Dependent						=	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	410.00
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 410.00

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Neil C. Jones	Registration No. (Attorney/Agent)	35,561	Telephone	864/250-2260
Signature		Date	April 3, 2003		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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Practitioner's Docket No. 03768/09379

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Howard M. Welch, Charles Morell, Michael C. Cook, Janes R. Fitts, Jr., Donald V. Willitts, Marion C. Morris, Ronald H. Wideman, John A. Brewer, Mark M. Mleziva, Ken M. Salter, Raymond J. May, Lavada Boggs, and Leslie D. Dobbins

Application No.: 09/855,169

Group No.: 1733

Filed: 05/14/2001

Examiner: Jeff Aftergut

For: METHOD AND APPARATUS FOR PRODUCING LAMINATED ARTICLES

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TRANSMITTAL

1. Transmitted herewith is a response (five (5) pages) for this application.

STATUS

2. Applicant is other than a small entity.

EXTENSION OF TERM

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply. Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for two months:

Fee: \$410.00

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

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TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Signature

Date: April 3, 2003

Deborah Anne Weiner

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

	(Col. 1)	(Col. 2)	(Col. 3)	OTHER THAN A SMALL ENTITY						
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA						ADDIT. FEE	
TOTAL	29	—	29	=	0	x	\$	18.00	=	\$ 0.00
INDEP.	3	—	3	=	0	x	\$	84.00	=	\$ 0.00
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM						+	\$	0.00	=	\$ 0.00
								TOTAL ADDIT. FEE	\$	0.00

No additional fee for claims is required.

FEE PAYMENT

5. Attached is check number 22696 in the sum of \$410.00.

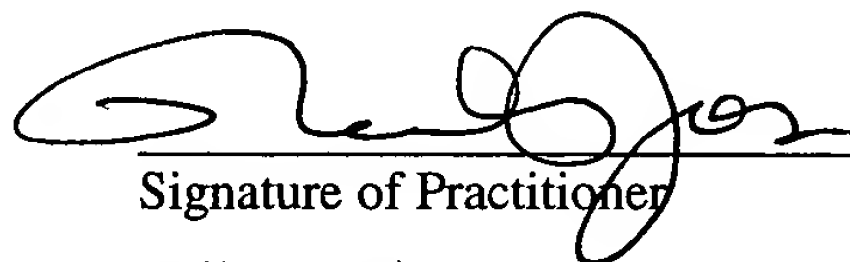
Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 50-2548.

A duplicate of this paper is attached.

Date: April 3, 2003

Reg. No.: 35,561

Tel. No.: 864-250-2260


Signature of Practitioner

Neil C. Jones
Nelson Mullins Riley & Scarborough
Keenan Building, Third Floor
1330 Lady Street
Columbia, SC 29201

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GROUP 1700



ATTORNEY DOCKET NO.: KCX-225 (14590)
03768/09379

#11/1/03
4/15/06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Welch, et al.)	Group Art Unit: 1733
)	
Serial No.: 09/855,169)	Examiner: Jeff. H. Aftergut
)	
Filed: May 14, 2001)	Deposit Account: 50-2548
)	
For: Method and Apparatus for)	
Producing Laminated Articles)	

RESPONSE

RECEIVED
APR 14 2003
GROUP 1700

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed November 7, 2002, please reconsider the rejections in light of the following arguments and allow the pending claims to issue. In addition, the present response is being submitted with the required two-month extension of time request under 37 C.F.R. § 1.136 to extend the period of response to April 7, 2003. If any further Extension of Time or additional fees for the accompanying response are required, Applicant requests that this be considered a Petition therefor. The Commissioner is hereby authorized to charge any additional fees, which may be required to Deposit Account 50-2548.

The Examiner rejected claims 1-4 and 6-29 as obvious over a combination of Canadian Patent No. 2248575 ("Can. '575") and PCT WO 92/16366 ("PCT '366"). The Examiner explained that Can. '575 taught a process for forming an elastic nonwoven

composite web by extruding a plurality of elastomeric filaments from an extruder in a vertical direction onto a chill roller disposed below the extruder but recognized that the reference failed to show that the extruder would provide filaments in a canted arrangement to the chill roller. The Examiner combined these two references and stated his belief that PCT '366 indicates that one of ordinary skill in the art knew how to feed filaments in either a direct vertical orientation or a canted orientation to a chill roller in the manufacture of composite elastics.

In addition, the Examiner rejected claim 5 as unpatentable over the same references in addition to Japanese Patent 54-82424, Wirz or Ditzler. This rejection was based on the Examiner's explanation that these additional references taught the automatic cutting and rethreading of filaments from a spinneret when the filaments were broken.

Contrary to the Examiner's position, there is no teaching to combine Can. '575 and PCT '366. In order for references to be combined under section 103 to create an obviousness rejection, there must be some teaching in the references themselves or in the prior art to combine the references. In particular, where references, when combined, would effectively destroy either of the reference's teachings or where references have entirely different purposes, then the references cannot be combined in an obviousness rejection.

Here, the purposes of the two references are completely different and the need for the vertical arrangements and the positioning of the first rollers relative to the continuous filaments extruder are based on completely different rationales. In Can. '575, the first roller is positioned beneath the extruder in order to pick up and efficiently

convey the continuous filaments through a series of stretching rollers. This series of rollers is for the stretching, quenching, and processing of the continuous filaments themselves.

On the other hand, the arrangement of the extruders in PCT '366 is solely for the purpose of being able to combine two types of filaments – elastomeric and non-elastomeric – into one continuous filament fiber tow. The way that such fibers are taught to be combined into one fiber tow is to provide side-by-side extruders. When side-by-side extruders are provided, the continuous fiber flows must still be brought together in some fashion. This is completed in PCT '366 by use of the chilled nip rollers. The only relatively simple way that the separate continuous filament flows can be combined into one array in this arrangement is to bring them in at an angle between some type of rollers that force the filament flows to become adjacent and to combine into one continuous fiber tow. There is no reason to combine the two references, other than the teachings provided by the present invention.

In order to combine the machines of the cited references, the entire extruder arrangement in PCT '366 would need to replace the extruder mechanism in Can. '575. In arriving at a combination of references, one cannot simply carve off bits and pieces of one of the references to form the claimed invention. Here, when the entire extrusion mechanism (dual side-by-side extruders and chilled nip rollers) of PCT '366 is used to replace the extruder mechanism of Can. '575, the claims are not met by that combination.

In addition, the machines of the Can. '575 and PCT '366 references are directed to completely different types of stretchable products. One, Can. '575, teaches feeding

flat ribbons into a laminate formation and the other, PCT '366, teaches feeding round continuous filaments into a laminate formation. If only one of the extruders of PCT '366 could be used to replace the extruder in Can. '575, then the teachings of Can. '575 would be destroyed, in that an extruder that produces filaments would be the beginning of a process that actually employs flat ribbons. Such a combination would, thus, be impossible and does not meet the limitations of the present claims directed to the use of "continuous filaments". As the combination of the cited references would not meet every one of the limitations in claims 1, 16, and 22 of the present application, the combination cannot not render the present application obvious under § 103. Therefore, it is respectfully requested that the Examiner withdraw the §103 rejection of claims 1-4 and 6-29.

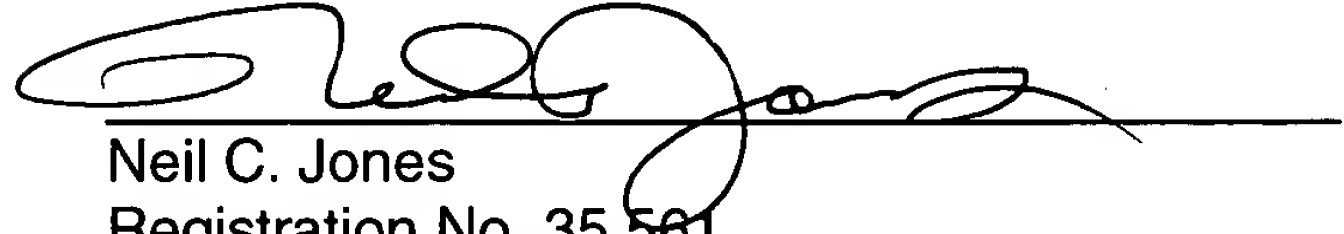
Finally, at this point in the prosecution, rejected claim 5 rises and falls with the patentability of the other claims pending in the application. While it is believed that claim 5 is separately patentable from the each of the other pending claims, if claims 1-4 and 6-29 are patentable, then so is claim 5.

In summary, in view of the foregoing arguments, we respectfully submit that the rejected claims are patentably distinct over the references cited by the Examiner and meet all other statutory requirements. We believe that the present Application is now in complete condition for allowance and, therefore, respectfully request the Examiner to reconsider the rejections in the Office Action and allow this Application. We invite the Examiner to telephone the undersigned should any issues remain after the consideration of this response. Please charge any additional fees that may be required to Deposit Account No. 50-2548.

Respectfully requested,

NELSON MULLINS RILEY & SCARBOROUGH

April 3, 2003
Date

A handwritten signature in black ink, appearing to read 'Neil C. Jones', is written over a horizontal line.

Neil C. Jones
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